

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
HAPAG-LLOYD AKTIENGESELLSCHAFT,

Plaintiff,

14 Civ. 9949 (VEC)

-against-

U.S. OIL TRADING LLC, O.W. BUNKER
GERMANY GMBH, O.W. BUNKER & TRADING
A/S, O.W. BUNKER USA, INC., ING BANK N.V.,
CRÉDIT AGRICOLE CIB,

Defendants.

-----X
U.S. OIL TRADING LLC,

Plaintiff,

15 Civ. 6718 (VEC)

-against-

M/V VIENNA EXPRESS, her tackle, boilers, apparel,
furniture, engines, appurtenances etc., *in rem*, and M/V
SOFIA EXPRESS, her tackle, boilers, apparel, furniture,
engines, appurtenances etc., *in rem*,

Defendants.

-----X
HAPAG-LLOYD AKTIENGESELLSCHAFT, as
claimant to the M/V VIENNA EXPRESS,

Counter-Claimant and Third-Party Plaintiff,

-against-

U.S. OIL TRADING LLC,

Counter-Defendant and

O.W. BUNKER GERMANY GMBH, O.W. BUNKER
& TRADING A/S, ING BANK N.V., and CRÉDIT
AGRICOLE CORPORATE AND INVESTMENT
BANK,

Third-Party Defendants.

**DECLARATION OF JOHN R.
KEOUGH IN SUPPORT OF
USOT'S MOTION FOR
SUMMARY JUDGMENT**

-----X

JOHN R. KEOUGH, declares:

1. I am a partner of the firm Clyde & Co US LLP, attorneys for U.S. Oil Trading LLC (“USOT”) in the captioned actions, and am fully familiar with the pleadings and the prior proceedings herein. I respectfully submit this declaration in support of USOT’s motion for summary judgment against the M/V SANTA ROBERTA, M/V VIENNA EXPRESS, M/V SEASPACE HAMBURG and M/V SOFIA EXPRESS, *in rem* (collectively, the “Vessels”), which upon information and belief are owned or operated by Hapag-Lloyd Akteingesellschaft (“Hapag”).

2. I make this declaration based on my personal knowledge and based on the documents in my files, except where stated as made upon information and belief, and as to those matters I believe them to be true.

3. True and accurate copies of the following exhibits are annexed hereto:

<u>Exhibit</u>	<u>Document</u>
A	Hapag’s First Amended Complaint for Interpleader and Declaratory Judgment (14 Civ. 9949) dated July 14, 2015. (Kock Dep., Ex. 46) ¹
B	Hapag’s Response to USOT’s First Requests for Admissions (14 Civ. 9949) dated December 24, 2015.
C	Email from Master of the M/V SANTA ROBERTA to Hapag’s bunker purchasing department dated September 26, 2014. (Kock Dep., Ex. 5)
D	Email from Hapag’s Lukas Gaus to Master of the M/V SANTA ROBERTA dated September 30, 2014. (Kock Dep., Ex. 6)

¹ References herein to “Kock Dep., Ex. ____” are to the exhibits marked at the deposition of Hapag’s Director of Purchasing and Supply, Norbert Kock, on January 19, 2016.

E Email from Hapag's Lukas Gaus to undisclosed list of recipients dated September 30, 2014. (Kock Dep., Ex. 7)

F Email from O.W. USA's Kai Zhou to O.W. Germany's Karl Heinz Selmer dated October 1, 2014.

G Email from O.W. Germany's Karl Heinz Selmer to Hapag's Lukas Gaus dated October 1, 2014. (Kock Dep., Ex. 9)

H Hapag's price and quality analysis for the subject delivery to the M/V SANTA ROBERTA. (Kock Dep., Ex. 8)

I Hapag's purchase order for the subject delivery to the M/V SANTA ROBERTA dated October 1, 2014. (Kock Dep., Ex. 11)

J Email from Hapag's Lukas Gaus to Norton Lilly dated October 1, 2014. (Kock Dep., Ex. 48)

K Email from Norton Lilly's Heath Albright to Hapag's Lukas Gaus dated October 1, 2014.

L O.W. Germany's sales order confirmation for the subject delivery to the M/V SANTA ROBERTA dated October 1, 2014. (Kock Dep., Ex. 10)

M Hapag's Marine Fuel Oil Terms & Conditions of Purchase.

N Hapag's payment advice form showing Hapag's payment to O.W. Germany for the subject delivery to the M/V SANTA ROBERTA dated November 6, 2014. (Kock Dep., Ex. 15)

O Email from the Master and Chief Engineer of the M/V VIENNA EXPRESS to Hapag's bunker purchasing department dated October 8, 2014.

P Email from Hapag's Dorit Niemeyer to the Master and Chief Engineer of the M/V VIENNA EXPRESS dated October 8, 2014.

Q Email from Hapag's Dorit Niemeyer to an undisclosed list of recipients dated October 8, 2014.

R Email from O.W. Germany's Karl Heinz Selmer to Hapag's Dorit Niemeyer dated October 9, 2014.

S Hapag's price and quality analysis for the subject delivery to the M/V VIENNA EXPRESS.

T Hapag's purchase order for the subject delivery to the M/V VIENNA EXPRESS dated October 9, 2014. (Kock Dep., Ex. 30)

U Email from Hapag's Dorit Niemeyer to Norton Lilly dated October 9, 2014.

V O.W. Germany's sales order confirmation for the subject delivery to the M/V VIENNA EXPRESS dated October 9, 2014. (Kock Dep., Ex. 29)

W Email from the Master and Chief Engineer of the M/V SEASPAN HAMBURG to Hapag's bunker purchasing department dated October 8, 2014. (Kock Dep., Ex. 18)

X Email from Hapag's Lukas Gaus to an undisclosed list of recipients dated October 9, 2014. (Kock Dep., Ex. 19)

Y Email from O.W. Germany's Karl Heinz Selmer to Hapag's Lukas Gaus dated October 10, 2014. (Kock Dep., Ex. 19)

Z Hapag's price and quality analysis for the subject delivery to the M/V SEASPAN HAMBURG. (Kock Dep., Ex. 19)

AA Hapag's purchase order for the subject delivery to the M/V SEASPACE HAMBURG dated October 10, 2014.

BB Email from Hapag's Lukas Gaus to Norton Lilly dated October 10, 2014. (Kock Dep., Ex. 21)

CC O.W. Germany's sales order confirmation for the subject delivery to the M/V SEASPACE HAMBURG dated October 10, 2014. (Kock Dep., Ex. 20)

DD Email from the Master of the M/V SOFIA EXPRESS to Hapag's bunker purchasing department dated October 20, 2014. (Kock Dep., Ex. 24)

EE Email from Hapag's Dorit Niemeyer to an undisclosed list of recipients dated October 22, 2014.

FF Email from O.W. Germany's Karl Heinz Selmer to O.W. USA dated October 22, 2014.

GG Email from O.W. USA's Kai Zhou to O.W. Germany's Karl Heinz Selmer dated October 22, 2014.

HH Hapag's price and quality analysis for the subject delivery to the M/V SOFIA EXPRESS.

II Hapag's purchase order for the subject delivery to the M/V SOFIA EXPRESS dated October 23, 2014. (Kock Dep., Ex. 25)

JJ Email from Hapag's Dorit Niemeyer to Norton Lilly dated October 23, 2014.

KK O.W. Germany's sales order confirmation for the subject delivery to the M/V SOFIA EXPRESS dated October 23, 2014.

LL Excerpts from transcript of deposition of Hapag's Norbert Kock on January 19, 2016.

MM

Excerpts from transcript of deposition of O.W. Germany's Gotz Lehsten on February 23, 2016.

NN

Excerpts from transcript of deposition of O.W. Germany's Boris Gronenberg on February 24, 2016.

I declare under penalty of perjury under the laws of the United States of America that the above declaration is true and correct to the best of my knowledge and belief.

Executed this 13th day of May 2016, at New York, New York.



John R. Keough

JOHN R. KEOUGH